

LOWELL HEALTH DEPARTMENT

19 APR -1 AM 9:17

Ralph Snow, P.E.
Commissioner of Public Works

BoH
5-8-19

April 1, 2019

Dear Municipal Official:

This letter is to inform you that the City of Lowell DPW intends to selectively apply herbicides along select locations on the city's public ways to control vegetation that poses a public nuisance and/or poses a risk to pedestrian or vehicular safety.

Lowell utilizes herbicides as a key component of their integrated vegetation management (IVM) program that includes cultural, physical, mechanical, and chemical management techniques that control undesirable vegetation in an ecologically sound manner.

Enclosed is Lowell's 2019 Yearly Operational Plan (YOP) that details specific information pertaining to this year's intended program. *(Full document on file at Health Dept.)*

Please review the YOP map(s). **If there are any additional sensitive areas located on or near the ROWs please advise us as soon as possible so permanent record can be established and appropriate field protective actions implemented. We particularly rely on this process to collect corrections to the public wells and to record the location of private wells.**

The chosen herbicides (listed in YOP) will be selectively applied to target vegetation by experienced, Massachusetts' licensed/certified applicators using backpack, handheld or truck mounted application equipment. It is anticipated that selective cut surface treatments will take place between June 1st and December 31st, 2019. All other treatments, which comprise the bulk of the program including pre-emergent, foliar, and basal treatments will take place between June 1st and October 15th, 2019. The exact time is dependent upon weather conditions and field crew progress.

All of the herbicides selected for this program are registered by the Federal Environmental Protection Agency and the Massachusetts Pesticide Board and all but one are recommended for use in and around sensitive areas by the Massachusetts Pesticide Bureau (please refer to the YOP for specifics and the *Sensitive Area Materials List* at <http://www.mass.gov/eea/agencies/agr/pesticides/rights-of-way-sensitive-area-materials-list.html>).

In compliance with 333 CMR 11.06-11.07, No herbicide applications occur before the conclusion of the 45 day YOP review period, the 21 day treatment notice and the 48 hour newspaper notice. At the end of these review periods—which ran concurrently—no application shall commence more than ten days before nor conclude more than ten days after the treatment periods listed above.

Under the direct supervision of a Category 40 pesticide licensee, the treatment will be performed by:

Municipal Pest Management Service

21 River Rd.
Newington, NH 03801

Vegetation Control Service, Inc.

2342 Main Street
Athol, MA 01331
(978) 249-5348

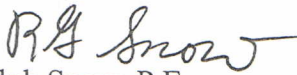
This informational 21-day notification is in compliance with Chapter 132B, section 6B of the Massachusetts General Laws and 333 CMR 11.05-11.07 Rights of Way Management and Chapter 85, Section 10 of the Acts of 2000.

For questions concerning the safety of the herbicides please contact:

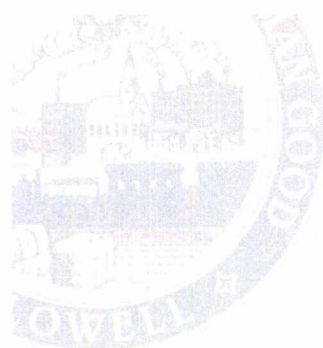
Clayton Edwards
Director of Rights of Way Program
Department of Food and Agriculture
251 Causeway Street, Suite 500
Boston, MA 02114-2151

If there are any questions or comments relative to technical questions about the treatment program or you would like a hard copy of the VMP please call my office and I will refer you the appropriate individual.

On behalf of the City of Lowell,


Ralph Snow, P.E.
Commissioner of Public Works

Enc: Yearly Operational Plan
Environmental Monitor Notice
45 Day Notice



LOWELL HEALTH DEPARTMENT

19 APR -1 AM 9:17

Ralph Snow, P.E.
Commissioner of Public Works

April 1, 2019

**45 Day Yearly Operational Plan
Public Notice, Review and Comment Period**

Dear Municipal Official:

In compliance with 333 CMR 11.06, *45 Day Yearly Operational Plan Public Notice, Review and Comment*, please review the enclosed City of Lowell Public Works Department 2019 Yearly Operational Plan.

Lowell's YOP details specific information pertaining to the intended 2019 integrated vegetation management program that includes cultural, physical, mechanical and chemical management techniques.

Please review the enclosed YOP map and street listing that locate the potential treatment areas along the city's public ways and the location of known *sensitive areas* including public and private drinking water supplies. If there are any additional *sensitive areas* located on or near the public ways, please advise us as soon as possible so we may establish permanent records and implement appropriate field protective actions.

Also, please review the enclosed hard copy of the Environmental Monitor Notice, published under the Massachusetts Environmental Policy Act (MEPA) at

<http://www.env.state.ma.us/mepa/emonitor.aspx>.

Enclosures: YOP
45 Day YOP Notice Review and Comment Document
21 Day letter
Environmental Monitor Notice

Notice Sent to: Chief Elected Municipal Official
Board of Health
Conservation Commission
Water Department
Massachusetts Department of Conservation and Recreation
Massachusetts Pesticide Bureau

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

MATTHEW A. BEATON
Secretary

JOHN LEBEAUX
Commissioner

Notice

Pursuant to the provisions of the Rights-of-Way Management Regulations, 333 CMR 11.00, to apply herbicides to control vegetation along rights-of-way (ROW), a five year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Massachusetts Department of Agricultural Resources (MDAR). Notice of receipt of a YOP for the City of Lowell and procedures for public review is hereby given as required by Section 11.06 (3).

Vegetation Control Service, Inc. (VCS) of Athol, Massachusetts submitted a YOP to MDAR for the City of Lowell in March 2019 along with the following commentary:

In 2019 Lowell will conduct an Integrated Vegetation Management (IVM) program along select locations on the city's public ways to control vegetation that poses a public nuisance and/or poses a risk to pedestrian or vehicular safety.

The intended vegetation control program will be consistent with Lowell's VMP. Therefore, in accordance with the guidelines set forth in Lowell's VMP and YOP, herbicides will be selectively applied to target vegetation by licensed/certified applicator(s) with hand-held equipment.

In regulated sensitive areas, Lowell will only use herbicides recommended by MDAR for use in these sensitive areas. Pursuant to 333 CMR 11.04, no herbicides will be sprayed within any designated "no spray sensitive area" instead mechanical only methods will be used to control vegetation.

Public notification will be provided to the Mayor, Conservation Commission, Board of Health and Water Department at least twenty-one days prior to any herbicide application.

In accordance with 333 CMR 11.06 (2), Lowell's YOP includes the identification of target vegetation; methods of identifying, marking and protecting regulated sensitive areas; application techniques; the herbicides, application rates, carriers and adjuvants proposed for use; alternative control measures; the individuals responsible for supervising the YOP and applying the herbicides; procedures for handling, mixing and loading herbicides; emergency resources including local, state and federal emergency telephone numbers; a city wide street listing and map of the city's downtown public ways which includes mapped sensitive areas, herbicide fact sheets and manufacturers' labels.

PUBLIC REVIEW

The MDAR seeks to verify the location of sensitive areas defined in Section 11.02 reported in the YOP. MDAR itself has a limited ability to survey the geography, land use and water supplies. Municipalities have most of this information readily available, and the particular knowledge with which to better certify the Sensitive Areas in their communities. MDAR, therefore, requests, and urges the assistance of in reviewing the completeness and accuracy of the map contained in the submitted YOP.

MDAR has established the following procedures for this review:

Copies of the YOP and this *Notice* will be sent by the applicant to the Mayor, Conservation Commission, Board of Health and Water Department, and the Massachusetts Department of Conservation and Recreation. Municipal agencies and officials will have forty-five days, following receipt of the YOP, to review its map for inaccuracies and omissions in the location of "sensitive areas not readily identifiable in the field."

Municipal agencies and officials are requested to forward the YOP to the appropriate official(s) in their municipality qualified to certify the accuracy of the sensitive areas indicated on the maps. The maps should then be "corrected" and returned to the applicant and a copy should be sent to MDAR at the address listed below within the forty-five day review period.

If the city needs more time to carry out this review, it should send a written request for an extension to MDAR and cite why there is a "good cause" for requesting additional time.

The applicant is required to make all corrections and the corrected maps will be sent back to the city that requested the disputed changes within fifteen days of receipt of the request. MDAR will decide whether or not the YOP should be approved without the requested changes.

The twenty-one day public review period of the Municipal ROW Notification Letter may serve concurrently with the forty-five day YOP review period in order to provide public notifications as required by 333 CMR 11.07, if the applicant has an approved VMP and if all the requisite city offices that received copies of the YOP completed their review and all corrections were duly made by the applicant and approved by MDAR.

A failure to respond to the applicant's submission of the YOP within the forty-five day period will automatically be considered by MDAR to indicate agreement by the municipal officials with the Sensitive Area demarcations provided by the applicant in their YOP.

Any questions or comments on the information provided in this *Notice* and the procedures established for the municipal review outlined above should be addressed to:

Clayton Edwards
Director of Rights-of-Way Programs
Massachusetts State Pesticide Bureau
251 Causeway Street, Suite 500
Boston, MA 02114-2151

Any questions or comments regarding the YOP should be addressed to:

Ralph Snow, P.E.
Commissioner of Public Works
Department of Public Works
The City of Lowell
1365 Middlesex Street | Lowell, MA 01851
(978) 674-4111

COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS (5pm) ON Friday, May 24, 2019

SUMMARY

A yearly operational plan (YOP) must be submitted to the Massachusetts Department of Agricultural Resources (MDAR) every year herbicides are intended for use to maintain public ways (rights-of-way). The YOP provides a detailed program for vegetation management including the methods used to identify target vegetation and sensitive areas, planned treatment methods, herbicides and herbicides mixtures and rates for the year.

The companion to this YOP: A five year Vegetation Management Plan (VMP) is available for review at the office of the Department of Public Works.

Upon receipt of this YOP, the MDAR publishes a notice in the Environmental Monitor. The City must also provide a copy of the proposed YOP and Environmental Monitor notice to the Board of Health, Conservation Commission, and Mayor. The Department allows a 45-day comment period on the proposed YOP beginning with the publication of the notice and receipt of the YOP and Environmental Monitor notice. A one page notice is also sent to the public water suppliers.

Public notification of herbicide application is made at least 21 days prior to the treatment(s) by a separate notice. This Notice is made to the Department of Agricultural Resources, Mayor, Board of Health, the Conservation Commission and the Municipal Public Water Supplier.

A newspaper notice will also be made at least 48 hours in advance of the start of the treatment program.

Any comments on this YOP should be made to the person designated herein as the person supervising the YOP, or the person performing the treatment.